

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TACTACELL, LLC,
Plaintiff,

v.

DEER MANAGEMENT SYSTEMS, LLC,
et al.,
Defendants.

Case No. 24-mc-80121-VC

**ORDER GRANTING MOTION TO
VACATE**

Re: Dkt. No. 23

Tactacell's Motion to Vacate is granted. On July 8, this Court issued an Order quashing Tactacell's second attempt to subpoena Bertram Capital Management, LLC in connection with an ongoing case in Louisiana. In that Order, Bertram was also granted reasonable costs and attorneys' fees under Rule 45(d)(1).

However, unbeknownst to the Court at the time of filing, Tactacell had informed Bertram five days earlier that it was withdrawing its subpoena. Tactacell believed that its withdrawal of the subpoena mooted Bertram's motion to quash but Bertram disagreed. As a compromise, Bertram proposed to stipulate to a stay of the motion to quash and offered to circulate a draft. On the evening of July 3, Tactacell agreed. However, due to the July 4th holiday weekend, Bertram did not file the stipulation prior to the issuance of this Court's Order on July 8. Based on the unfortunate timing of events and the fact that Tactacell tried to withdraw its subpoena, vacating the July 8 Order seems appropriate. That being said, Tactacell is lucky to avoid paying attorneys' fees in this case given its conduct in issuing of two deficient subpoenas and failing to timely oppose Bertram's motion to quash.

Now that the subpoena has been withdrawn and the Order for fees is vacated, the case

can be closed.

IT IS SO ORDERED.

Dated: August 20, 2024

A handwritten signature in black ink, appearing to read 'V. Chhabria', positioned above a horizontal line.

VINCE CHHABRIA
United States District Judge